

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**REQUIREMENTS FOR THIRD PARTY LIABILITY
IDENTIFYING LIABLE RESOURCES**

§1. Definitions

"IEVS" - the Income and Eligibility Verification System.

"Third Party" - any individual, entity or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under a State Plan.

"Title IV-A agency" - the organizational unit in the State, the Department of Social Service, that has the responsibility for determining eligibility for all groups covered by Medicaid.

"Title IV-D agency" - the organizational unit in the State, the Department of Social Services, that has the responsibility for administering or supervising the administration of a State plan for child support enforcement under Title IV-D of the Act.

"Title XIX agency" - the organizational unit in the State responsible for administering the implementation of programs created by the nineteenth amending title to the Social Security Act.

"TPQY" - Third Party Information Query system administered by the Social Security Administration.

"VEC" - the Virginia Employment Commission (the state SWICA agency) which is the state organizational unit responsible for providing a work ready labor force, temporary income protection to workers involuntarily unemployed, and labor market and economic information.

§2. Determining liability of third parties.

§2.1. The agency takes all reasonable measures to determine the legal liability of third parties to pay for care and services furnished under the Plan. The Commonwealth is a "209b" state and all eligibility is determined by the Department of Social Services (DSS). At a minimum, such measures include the requirements specified below.

§2.2. Health insurance information.

- A. Health insurance information is obtained by the Title IV-A agency (DSS) during the initial application and redetermination processes for Medicaid eligibility.
- B. The information is coded on the recipient's eligibility card and in the computer system.

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- C. Health insurance information may include, but is not limited to, the policy holder's name, the relationship to the applicant or recipient, the policy holder's social security number (SSN) and policy number, and the name and address of the insurance company.
- D. The Title XIX agency has an agreement with the IV-A agency to collect and to transmit from the applicant or recipient during the initial application and each redetermination process such health insurance information as is useful in identifying legally liable third party resources so that the Medicaid agency may process claims under the third party liability payment procedures specified in 42 CFR §433.139 b-f. Health insurance information may include, but is not limited to, those elements described in item C above.
- E. The Title IV-A agency incorporates into the eligibility case file the names and SSNs of absent or custodial parents of Medicaid recipients to the extent such information is available.
- F. Payment of health insurance premiums when identified as cost effective.

§2.3. Exchange of data.

- A. The Title XIX agency obtains and uses information for the purpose of determining the legal liability of third parties so that the agency may process under the third party liability payment procedures specified in §433.139 b-f, and the agency utilizes information from these sources:
 - 1. The Title XIX agency does not have an agreement with SWICA or SSA wage and earning files data since the eligibility information is obtained from the IV-A agency. The IV-A agency is responsible for obtaining all necessary eligibility information for applicants and uses IEVS, TPQY and VEC files.
 - 2. The IV-A agency utilizes all wage and earnings information appropriate to the determination of eligibility. The DSS obtains its information through IEVS (the alternate information source allowed by 42 CFR 433.138 (d)(2)) which obtains information from Department of Motor Vehicles (DMV), Internal Revenue Service (IRS) and VEC. The Title IV-A agency updates the Title XIX agency's eligibility file which is then used for claims processing.
 - 3. The Industrial Commission of Virginia (Workers' Compensation agency) has denied the Title XIX agency's request to provide data matches. Documentation of such denial has been provided to the HCFA Regional Office. The Title XIX agency will continue its efforts to obtain data matches with this agency.
 - 4. Agreements to obtain data matches from the DMV (State motor vehicle accident report files) are presently in progress.

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§2.4. Diagnosis and trauma code edits.

1. The Title XIX agency takes action to identify those paid claims for Medicaid recipients that contain diagnosis codes 800-999 (ICDCM) International Classification of Disease, Ninth Revision Clinical Modification Volume I, inclusive, for the purpose of determining the legal liability of third parties so that the agency may process claims under the third party liability payment procedures specified in 42 CFR §433.139 b-f.
2. These system edits are used daily.

§2.5. Follow-up procedures for identifying legally liable third party resources.

1. The Title XIX agency follows up on information within 30 days in order to identify legally liable third party resources for casualty cases.
 - a. Information is obtained from providers, Title XIX program representatives, third party monthly alert letters, insurance companies, attorneys, probation officers, social service agencies, recipients, newspaper articles, and clerks of court.
 - b. Information is retained in third party case files.
 - c. Within 30 days, the Title XIX agency determines the amount of monies paid for health services rendered to injured recipients. The responsible third party is identified and within 30 days is notified that the Commonwealth has a lien for monies expended by the agency for the injured recipient.
 - d. The agency issues several lien status letters which have 90 day reply due dates depending on the age of the accident date, the lien amount and the agency's historical experience with the third party or the third party's attorney.
 - e. After no response is received to several lien status letters, the case is referred to the Office of the Attorney General for investigation and/or collection.

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2. The agency uses the following procedures for trauma code edits.
 - a. The system produces monthly third party alert letters from the edits' applications. In third party alert letters, the affected recipients are requested to advise the Title XIX agency about the necessity for their treatment and if attorneys, insurance companies or other third parties are involved in their case. This information is utilized within 30 days of receipt to open cases for recovery of funds where applicable. This information is not entered into the eligibility case file where the agency enters only the individual's health insurance coverage, but is retained in the third party case files.
 - b. New information as obtained is added to third party case files on a daily basis.
3. The Title XIX agency follows up on health insurance information within 60 days in order to identify legally liable third party resources and incorporates this information into the eligibility case file so that the agency may process claims under the third party liability payment procedures specified under §433.139 b-f.
 - a. The health insurance information which might not be obtained during the eligibility process can appear during invoice processing and this information is researched and investigated and added to the recipient eligibility file.
4. Once an agreement with the state motor vehicle agency has been obtained, the Title XIX agency will incorporate the procedures identifying the methods used by the agency to identify legally liable third party resources.

§2.6. Information and data exchanges.

- A. The Title XIX agency complies with 42 CFR 433.138 (h)(1) and (2) and at the present time has a written agreement with the Title IV-D agency. No reimbursement has been requested by the IV-D agency for reasonable costs incurred in furnishing information to the Title XIX agency.

§2.7. Reports.

- A. The Title XIX agency will produce such reports as the Secretary prescribes for the purpose of determining compliance under §433.138 of the CFR and evaluating the effectiveness of the third party liability identification system.